

# SPECIAL Report



NATIONAL ROOFING CONTRACTORS ASSOCIATION

June 25, 1997

Dear Member:

This special report provides information regarding a new pilot program being offered by the U.S. Department of Transportation's (DOT) Federal Highway Administration (FHWA). The program is being offered to certain qualified interstate motor carriers (roofing contractors) who operate light to medium weight (between 10,000 and 26,001 pounds) commercial motor vehicles (CMV). If accepted into the pilot program, a roofing contractor will be required to perform certain duties and will be exempted from others required by the Federal Motor Carrier Safety Regulations (FMCSRs).

Realistically, it is probably a wash in terms of paperwork requirements, i.e., what you gain in being exempted from certain duties, you lose in fulfilling the data collection requirements. However, the principal objective of the pilot is to provide information to the FHWA regarding its ongoing zero-based review and cost-benefit analysis of the FMCSRs, as they apply to this range of CMV. THIS IS WHAT MAKES THE PROGRAM WORTH THE EFFORT! The data derived from the pilot will, it is hoped, put an end to all of the FMCSR regulatory requirements placed on roofing contractors and others in this CMV range. It will allow you to show that the implementation of your own safety plans can be at least as, if not more effective, than regulations placed on you by DOT.

This is an exciting opportunity to participate in a program that may ultimately result in the CMV weight threshold of the FMCSR's, which trigger all of the requirements, being raised from 10,001 to 26,001 pounds. We hope you will carefully review this report and consider participating in the pilot program. If you are interested, please contact NRCA's Janice Berger at extension 205 or, if you would like more information, Tom Shanahan at extension 238.

## BACKGROUND

On November 28, 1995, President Clinton signed the National Highway System Designation Act of 1995. NRCA reported to the membership at that time that, among other things, FHWA was required to implement a pilot program for motor carriers who operated CMVs as described above. Two comment periods followed seeking information from the public regarding a proposed program and the applicability of the program to interstate transportation. The latter comment period ended on November 29, 1996. The final notice was published in the June 10 *Federal Register* announcing the pilot and looking for participants.

## WHO IS ELIGIBLE

The following delineates who is eligible to participate in the pilot program. An eligible motor carrier (roofing contractor) is one who:

- 1) Operates in interstate (crosses state lines) commerce;
- 2) Operates CMVs between 10,000 and 26,001 pounds, as long as these vehicles are

- not designed to transport more than 15 passengers or transport hazardous materials in amounts requiring placards;
- 3) Does not have an "Unsatisfactory" Safety Fitness Rating;
  - 4) Has a 1.6 accident rate per million vehicle miles over three years, or for companies with less than a million miles in a three-year period, one or less police-reported accidents in that time frame;
  - 5) Is active year-round and is not a "seasonal" motor carrier, meaning that the business must function in more than one season of the year (roofing contractors who may not work during the winter months are considered eligible);
  - 6) Has drivers that have not been convicted of:
    - (a) an offense as a direct result of a fatal accident
    - (b) driving under the influence of drugs or alcohol
    - (c) leaving the scene of an accident or
    - (d) a felony involving the use of a CMV; and
  - 7) Has a written Safety Control Plan (as described below).

#### WHAT FMCSR REQUIREMENTS ARE SUSPENDED

Several FMCSR requirements will be suspended during the three-year period. FHWA has yet to determine how the requirements will be reinstated after the pilot. It is expected that the pilot will generate changes, but time will tell what permanent changes occur. For the duration of the pilot period, the following apply:

- 1) Driver Qualification Requirements
  - (a) newly-hired drivers are not required to furnish a list of motor vehicle violations (Part 391.11(b)(8));
  - (b) contractors still must obtain the official state driving record (Part 391.23);
  - (c) drivers do not have to complete a road test (Part 391.11(b)(10));
  - (d) drivers do not have to furnish the application for employment (Part 391.11(b)(11); and
  - (e) contractors do not have to maintain Driver Qualification Files (Part 391.51)
- 2) Driver Hours of Service Requirements
  - (a) drivers are not required to maintain the log books (Part 395.8);
  - (b) contractors are still required to ensure that drivers do not violate the maximum driving time rules. (No driver can drive more than 10 hours per day, or drive after having been on-duty more than 15 hours in a day, or drive more than 60 hours in a seven-day period [for businesses operating six day a week] or 70 hours in an eight-day period [for business operating seven days a week]) (Part 395.3); and
  - (c) contractors and drivers are required to observe the rules governing the use of ill or fatigued drivers (Part 392.2).
- 3) CMV Inspection Requirements
  - (a) contractors are excepted from the vehicle inspection and record retention requirements (Part 396.3(b)(c));
  - (b) drivers do not have to complete the daily vehicle inspection and report at

the end of the shift (Part 396.11);

(c) drivers do not have to complete the pretrip vehicle inspection and report (Part 396.13);

(d) contractors are exempt from the periodic (annual) inspection, inspector, and record keeping requirements (Parts 391.17,.19,.21); and

#### 4) Accident Information

Contractors involved in the Project will not be required to maintain an accident register (Parts 390.15(b)(1)&(2)).

### DUTIES OF PARTICIPANTS

As a participant in the project, contractors must:

- 1) Report accidents to the FHWA within 10 business days, along with a re-calculation of the accident ratio to vehicle miles. If the new ratio is greater than the Project standard the contractor will be removed from the program (or, for contractors with less than a million vehicle miles traveled in the most recent 36 months, if this is the second or greater accident in the most recent 36 months);
- 2) Submit an updated roster to the FHWA immediately after hiring a new driver;
- 3) Submit driver name and license number to FHWA immediately after a driver ceases to be employed by the Project contractor;
- 4) Notify the FHWA within 10 days if the business is sold, goes out of business, changes its name, ceases to operate in interstate commerce, ceases to operate the specified CMVs, or ceases to conduct operations on a year round basis;
- 5) Notify the FHWA within 10 days if the safety control plan is changed or if the carrier is unable for whatever reason to fulfill the terms of the SCP; and
- 6) Provide the FHWA with an updated accident calculation every six months on the anniversary of acceptance to the project.

### DISQUALIFYING EVENTS

- 1) If a motor carrier's accident rate exceeds 1.6, or if the contractor who travels less than a million miles experiences a second accident within a three year period; or
- 2) if the FHWA determines a participating carrier to be a threat to the public, then that motor carrier will be excluded from the project; or
- 3) Drivers convicted of any of the offenses listed in item number 6 under the "Who is Eligible" section of this document may result in disqualification of the motor carrier, or may result in at least closer scrutiny by the FHWA; or
- 4) Project drivers who pose a threat to highway safety will be excluded from participating in the project.

### OTHER

- 1) Participating carriers are not excepted from roadside inspections, compliance reviews, or enforcement actions other than those specifically listed as exceptions.
- 2) The FHWA will evaluate participants by viewing various state and federal databases as well as project data from the participating carriers.

## APPLICATION REQUIREMENTS

To be considered for this Project, contractors must submit the following items in writing to NRCA by November 14, 1997.

- 1) MCS-150, Motor Carrier Identification Report, which provides updated information about the overall operation of the motor carrier
- 2) Signed Certification Statement, executed by the Chief Operating Officer of the motor carrier

I certify that (name of the motor carrier) operates CMVs having a GVWR between 10,001 and 26,000 pounds, inclusive, in interstate commerce, on a year-round basis, and is not rated "Unsatisfactory" by the FHWA. I certify that the company has approved the attached Safety Control Plan and will employ these controls throughout the Project. I certify that the motor carrier EITHER:

has an accident rate equal to or less than 1.6 police-reported accidents per million vehicle miles traveled (VMT), averaged over the most recent 36 months, based upon \_\_\_\_\_ police-reported accidents and \_\_\_\_\_ vehicle miles traveled, by CMVs having a GVWR between 10,001 and 26,000 pounds, inclusive, OR has \_\_\_\_\_ actual VMT (less than one million) over the most recent 36 months and has experienced \_\_\_\_\_ (less than 2) police-reported accidents involving subject vehicles over that period of time.

I hereby submit a roster of \_\_\_\_\_ company drivers for participation in the Project. The roster includes driver names, license numbers and State of licensure, and dates of employment. I certify that each of these drivers is eligible to participate in the Project, that each operates CMVs having a GVWR between 10,001 and 26,000 pounds, inclusive, and that I have independently verified that the driving record of each does not include any convictions within the past three years of any of the disqualifying offenses enumerated in the Project criteria. I have read and agree to be bound by the requirements for notification and submission of information to the FHWA outlined in the section entitled "The Agreement" in the notice of final determination of this project.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name of Motor Carrier

- 3) A Safety Control Plan

There must be a written plan that explains, in detail, how the current level of safety will not be compromised by the Project exceptions. A

current safety program may be sufficient or a sample plan outline may be obtained by calling NRCA.

4) A Driver Roster - consisting of driver names, driver license numbers, and state of licensure, and dates of employment. Applicants must submit the names of ALL eligible drivers for participation in the project.

All of the above items should be submitted in writing by **November 14, 1997** to:

**Janice Berger**  
**National Roofing Contractors Association**  
**10255 West Higgins Road, Suite 600**  
**Rosemont, IL 60018-5607**

#### CONCLUSION

The FHWA currently imposes a number of requirements upon businesses who operate carriers larger than 10,000 pounds. This project is an opportunity for drivers of vehicles up to 26,000 pounds to demonstrate that individual safety control plans can result in equal, or increased, efficiency and safety on the road. All non-seasonal, interstate carriers of vehicles between 10,000 and 26,001 pounds are eligible to apply for this data-gathering pilot project, which may ultimately result in decreased regulatory control by DOT. If there are any questions, please call Tom Shanahan at (847)299-9070 x238.